

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA



Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.

Investigation 07-01102 **FILED**
(Filed January 11, 2007)
04:59 PM

In the Matter of the Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.

Application 06-09-006
(Filed September 6, 2006)

Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.

Application 06-10-026
(Filed October 23, 2006)

Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.

Application 06-11-009
(Filed November 20, 2006)

Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.

Application 06-11-010
(Filed November 22, 2006)

Application of San Jose Water Company (U 168 W) for an Order Approving its Proposal to Implement the Objectives of the Water Action Plan.

Application 07-03-019
(Filed March 19, 2007)

**MOTION OF PARK WATER COMPANY, NATIONAL CONSUMER LAW CENTER,
CONSUMER FEDERATION OF CALIFORNIA, LATINO ISSUES FORUM AND
UTILITY REFORM NETWORK TO APPROVE SETTLEMENT AGREEMENT**

(SETTLEMENT AGREEMENT ATTACHED)

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August 10, 2007

Before the Public Utilities Commission of the State of California

Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.	Investigation 07-01-022 (Filed January 11, 2007)
In the Matter of the Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.	Application 06-09-006 (Filed September 6, 2006)
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I. INTRODUCTION

Pursuant to Rule 12.1 of the Commission's Rules of Practice and Procedure (Rules) and the May 29, 2007, Assigned Commissioner's Ruling that modified the procedural schedule (5/29/07 Ruling),¹ Park Water Company (Park), National Consumer Law Center (NCLC), The Consumer Federation of California (CFC), The Latino Issues

¹ Administrative Law Judge's Ruling Consolidating Application Of San Jose Water Company, Modifying Schedule And Addressing Phase I Hearings (May 29, 2007).

Forum (LIF) and The Utility Reform Network (TURN collectively, the Parties) submit this Motion to Approve the attached Settlement Agreement Between Park Water Company, National Consumer Law Center, Consumer Federation of California, The Latino Issues Forum and The Utility Reform Network, and on the Issue of Data Collection, Monitoring and Reporting (Settlement).

In the Settlement, the Parties propose the implementation of a data collection, monitoring, and reporting program to assess the impact of conservation rate design on customers. In the Settlement, the Parties propose that the costs associated with this program be tracked in a memorandum account. The Settlement fulfills the criteria that the Commission requires for approval of such settlements in that it is reasonable in light of the whole record, consistent with the law, and in the public interest. For these reasons, the Commission should grant this Motion and adopt the proposed Settlement.

II. PROCEDURAL BACKGROUND

In Decision 06-08-015 dated August 25, 2006, the Commission ordered Park to file an application for approval of a Water Revenue Adjustment Mechanism (WRAM) within 90 days. On November 20, 2006, Park filed its Application to Implement Water Action Plan Conservation Objective (Application or A.06-11-009). In its Application, Park requested: (1) a WRAM that decouples water sales from revenues to eliminate disincentives to water conservation, (2) increasing block rates for single family residential customers to promote greater water conservation and efficient water use and (3) a conservation memorandum account to track the incremental costs of Park's new conservation programs. On December 22, 2006, the Division of Ratepayer Advocates (DRA) filed a protest to the Application identifying several issues of concern, and Park filed a reply to DRA's protest on January 2, 2006.

In the Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities (the OII), the Commission consolidated A.06-11-009 and several other applications for conservation rates into the above-captioned proceeding. On January 29, 2007, parties filed responses

to the preliminary scoping memo contained in the OII, and a prehearing conference (PHC) was held on February 7, 2007. On March 8, 2007, the Commission adopted a final scope and two-phased schedule for this proceeding in an Assigned Commissioner's Ruling and Scoping Memo (Scoping Memo). The Scoping Memo defined Phase 1 as follows:

The first phase of this proceeding will address rate-related conservation measures, including the parties' increasing block rate and Water Revenue Adjustment Mechanism (WRAM) proposals. Any settlements and motions proposing their adoption under Rule 12.1 of the Commission's Rules of Practice and Procedure shall be filed on or before April 23, 2007. In order to assess how any settlement addresses the rate-related conservation objectives identified in the OII, I will order the settling parties to discuss relevant issues in the motion proposing the settlement agreement and/or the settlement.²

Pursuant to Rule 12.1(b), an all-party settlement meeting was held on April 16, 2007, to address the conservation rate design applications of Park, as well as those of Golden State Water Company (A.06-09-006), California Water Service Company (Cal Water) (A.06-10-026), and Suburban Water Systems (Suburban) (A.06-11-010).³

On May 16, 2007, TURN and Cal Water filed a Motion to Modify Schedule in order to allow TURN, Cal Water, and DRA to negotiate an amended settlement that would resolve TURN's opposition to the 4/23/07 Settlement. In an Administrative Law Judge's Ruling Consolidating Application Of San Jose Water Company, Modifying Schedule And Addressing Phase I Hearings filed May 29, 2007 (5/29/07 Ruling), Phases 1A and 1B were established, among other things. Phase 1A ordered that a settlement regarding Park's Application should be filed on May 30, 2007,⁴ but stated in the

² Scoping Memo at 3 (footnote omitted).

³ Notice Canceling 4/11/07 Settlement Meeting and Setting 4/16/07 Settlement Meeting (April 6, 2007). The participants of the meeting agreed that another all-party settlement meeting would not be held prior to April 23, 2007, the deadline for filing proposed settlements agreements.

⁴ 5/29/07 Ruling at 7.

alternative that parties “must either file an all-party settlement agreement or get the other parties’ concurrence to adhere to the schedule for filing comments.”⁵ While Park and DRA had reached agreement on several issues, the parties were unable to meet the May 30, 2007 deadline, but continued to work towards a settlement.

On June 11, 2007, the City of Norwalk filed a Petition For Intervener Status that was granted on June 12, 2007. Pursuant to Rule 12.1(b), an all-party settlement meeting was held on June 13, 2007, to address the conservation rate design and WRAM for Park, as well as issues relating to the applications of other companies. Representatives from approximately 11 parties participated in the meeting. Consistent with footnote 2 of the 5/29/07 Ruling, Park and DRA presented a proposed settlement on rate design and WRAM to all parties and, at the end of the meeting, sought concurrence to adhere to the schedule for filing comments. The CFC was the sole party that objected to adhering to the schedule for filing comments.

On June 15, 2007, Park and DRA filed a proposed Settlement Agreement on WRAM and Conservation Rate Design Issues (Rate Design Settlement).⁶ The Rate Design Settlement specified that Park’s request for a conservation memorandum account remained in contention between the otherwise settling parties.⁷ Parties filed Comments on the Rate Design Settlement on June 29, 2007,⁸ and Reply Comments on July 6, 2007.⁹

⁵ 5/29/07 Ruling at note 2.

⁶ Motion of the Division of Ratepayer Advocates and Park Water Company to Approve Settlement Agreement (June 15, 2007), with Settlement Agreement Between the Division of Ratepayer Advocates and Park Water Company on WRAM and Conservation Rate Design Issues attached (Rate Design Settlement).

⁷ Rate Design Settlement at 9 (Section 15.2).

⁸ Disability Rights Advocates’ Comments To The Settlement Between Division Of Ratepayer Advocates And Park Water Company (June 29, 2007); Comments Of The National Consumer Law Center, The Latino Issues Forum And Consumer Federation Of California On The Motion Of The Division Of Ratepayer Advocates And Park Water Company To Approve Settlement Agreement (June 29, 2007), and; The Consumer Federation Of California’s Comments On Settlement Agreement Between DRA And Park Water Company (June 29, 2007).

⁹ Reply Comments of Park Water Company (July 6, 2007) – Reply Comments of DRA (July 6, 2007)

The Administrative Law Judge's Ruling Consolidating Application Of San Jose Water Company, Modifying Schedule And Addressing Phase I Hearings issued on May 29, 2007 (5/29/07 Ruling) directed that testimony on contested issues be served on or before June 29, 2007. Park and DRA notified the ALJ and the service list on June 29, 2007, that the parties were continuing settlement negotiations on the issue of Park's request for a conservation memorandum account, and that, in the absence of an additional settlement on the issue, Park and DRA would serve testimony on the issue on July 13, 2007. At the Pre-Hearing Conference on July 11, 2007, DRA and Park informed the ALJ and interested parties that the DRA and Park would file testimony on the issue if the parties had not reached a settlement in principle by July 13, 2007.

On July 17, 2007, Park sent out notice to all parties of an all-party settlement conference on July 19, 2007, to discuss a proposed settlement on a conservation memorandum account. Though many parties were unable to attend the conference, Park was subsequently able to contact the City of Norwalk, NCLC, LIF, and TURN. With the exception of TURN, all of the parties stated that they did not have any plans to oppose this settlement. TURN declined to take a position on this issue. None of the parties at the conference indicated any opposition and neither Park nor DRA have received any indication of opposition from any other parties. On July 30, 2007, Park and DRA filed a proposed Settlement Agreement on a conservation memorandum account.

During Phase 1A evidentiary hearings Park testified that Park and NCLC had initiated settlement discussions on the issue of data collection and introduced as an exhibit a proposal from Park which had been reviewed by NCLC and other interveners and which Park believed to be the basis for a settlement agreement on this issue. On August 8, 2007, Park and NCLC distributed a draft of the settlement agreement on Data Collection, Monitoring and Reporting to TURN, LIF, CFC and Disabilities Rights Advocates. Park was subsequently able to contact DRA. DRA had previously indicated that they would not take a position on this issue. Disabilities Right Advocates and DRA have stated that they did not have plans to oppose the Settlement Agreement. Both DRA

and Disability Rights Advocates have indicated that they will not take a position on the Settlement Agreement.

III. GROUNDS ON WHICH ADOPTION IS URGED

Rule 12.1 states that, in a proposed settlement agreement and/or the motion to adopt the proposed settlement, settling parties must provide a statement of factual and legal considerations adequate to advise the Commission on the scope of the settlement and grounds on which adoption of the settlement is urged.

A. The data proposed to be collected in this settlement will be useful to assess the impact of the conservation rate design on customers and evaluate the need for modification

On December 15, 2005, the Commission issued a Water Action Plan (WAP) in which it expressed its intent to encourage water utilities to implement increasing conservation and efficiency rate designs (such as increasing block rates) where feasible to promote greater conservation. In the Rate Design Settlement, Park and DRA have proposed to implement a Trial program consisting of conservation rate design for residential and non-residential customers. In order to assess the impact of the proposed conservation rates on customers, especially Low Income Rate Assistance (LIRA) customers, the Parties recommend the collection, monitoring and reporting of monthly data on usage, arrearages and disconnections for residential and LIRA customers; monthly usage per customer for all classes and LIRA with comparison to the prior year; and weather-normalized usage data to be available during General Rate Cases (as itemized in Section 3.2 of the settlement agreement). Additionally the settlement provides for annual reporting to the Commission of the monthly data collected, with the exception of the weather-normalized usage data made available during General Rate Cases (GRC).

The Parties believe that the collection of this data is useful for analyzing the effectiveness of the conservation rate design and will be helpful in designing rates in future GRCs. Because there is no way of knowing in advance, the customer demand

response to the proposed conservation rate design, the collection of data is necessary for evaluation of the effectiveness and customer impact of the conservation rate design. The monitoring and collection of data will provide the customer demand response to the conservation rate design that will be used to improve the efficiency of the conservation rate design.

The data on arrearages and disconnections for residential and LIRA customers will be useful in the early identification of affordability problems that may arise from increasing block rates. The data will also provide the basis for the analysis of how LIRA customers are impacted under the new conservation rates. With the data collection, Park will be in a better position to determine the design of increasing block rates to help maintain affordability for LIRA customers.

B. The cost associated with data collection and monitoring is cost effective and will provide commensurate ratepayer benefits

The Parties propose that the costs of the data collection will be tracked for potential future recovery in the Implementation Cost Memorandum Account proposed by Park and DRA in the Rate Design Settlement should the Commission establish that memorandum account, or in such other memorandum account that the Commission should designate for this purpose. This would apply only to costs incurred after a Commission decision authorizing the memorandum account. Due to the memorandum account treatment, as well as the estimating of expense estimates in future GRCs, ratepayers will bear the reasonably incurred costs of the data collection program. Therefore the cost-effectiveness of the program to ratepayers is important.

For some of the data collection, modification will need to be made to Park's Customer Information System (CIS). Park anticipates that the programming costs associated with modification to the CIS for purposes of automating data collection efforts will cost approximately \$20,000. The parties propose that the modifications will not be undertaken until the memorandum account is authorized. Given successful modification

to the CIS as planned, Park anticipates the the ongoing effort of collection and reporting will be minor and can be accomplished by existing Park personnel. Park anticipates that the availability of weather-normalized usage data during GRCs will be accomplished during the sales forecasting process at a cost of about \$1,500.

The Parties believe that this level of expense is cost effective and will provide ratepayer benefits through data collection and monitoring that will allow for the continued development of conservation rates that provide appropriate price signals to all customers.

IV. THE SETTLEMENTS MEET THE CRITERIA UNDER RULE 12.1

Rule 12.1 requires that a settlement be “reasonable in light of the whole record, consistent with law, and in the public interest.” The Settlement meets these requirements. First, the Settlement is reasonable in that it takes into account the conservation objectives of the Commission as stated in its Water Action Plan and underlying data specific to the situation of Park Water Company contained in Park’s A.06-11-009 and the testimony attached thereto. Extensive settlement negotiations were accomplished at arm’s length over the course of several weeks. The parties fully considered the facts and the law relevant to this case, and reached a reasonable compromise on this issue raised in the Comments of NCLC, LIF and CFC on the Rate Design Settlement.

Secondly, the Parties are aware of no statutory provision or prior Commission decision that would be contravened or compromised by the Settlement. The issues resolved in the Settlement are within the scope of the proceeding. The Settlement produces just and reasonable rates.

Finally, the Settlement is in the public interest. The principal public interest affected by this proceeding is delivery of safe, reliable water service at reasonable rates. The Settlement advances this interest because it fairly balances Park’s opportunity to earn a reasonable rate of return against the needs of consumers for reasonable rates and safe, reliable water service. The Settlement is also consistent with the Commission’s Water

Action Plan objective for setting rates that balance investment, promote conservation, and ensure affordability. In addition, Commission approval of the Settlement will provide speedy resolution of contested issues, will save unnecessary litigation expense, and will conserve Commission resources. The Commission has acknowledged that “[t]here is a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation.” *Re PG&E*, D. 88-12-083, 30 CPUC 2d 189, 221.

In sum, the Parties believe that the Settlement and the related documentation convey sufficient information for the Commission to discharge its future regulatory obligations. Thus, taken as a whole, the Settlement satisfies the Commission’s standards for approving settlements presented to it.

The Parties have entered into this Settlement on the basis that the Commission’s adoption not be construed as an admission or concession by any party regarding any fact or matter of law in dispute in this proceeding. Furthermore, the parties intend that the Commission’s adoption of this Settlement not be construed as any statement of precedent or policy of any kind for or against them in any current or future proceedings. Finally, the Settlement is an integrated agreement, so that if the Commission rejects any portion of the Settlement, each party has a right to withdraw.

V. CONCLUSION

For the reasons discussed above, Park, NCLC, CFC, LIF and TURN urge the Commission to approve the attached Settlement on Data Collection, Monitoring and Reporting.

Respectfully submitted,

/s/ LEIGH JORDAN

LEIGH JORDAN

Executive Vice President for
PARK WATER COMPANY

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CERTIFICATE OF SERVICE

**I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A COPY OF
“MOTION OF PARK WATER COMPANY, NATIONAL CONSUMER LAW
CENTER, CONSUMER FEDERATION OF CALIFORNIA, LATINO ISSUES
FORUM AND UTILITY REFORM NETWORK TO APPROVE SETTLEMENT
AGREEMENT ” IN I.07-01-022, ET AL. BY USING THE FOLLOWING
SERVICE:**

[X] E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[] U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses, if any.

Executed on **August 10, 2007** at Downey, California.

/s/ EDWARD JACKSON

Edward Jackson

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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